

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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CAMDEN IRON & METAL, INC., and EASTERN METAL  
RECYCLING, INC.,

*Plaintiffs,*

*-against-*

ANTHONY DAWSON and MORRIS FREEDMAN

*Defendants.*

**STIPULATION  
AND ORDER**

Civil Action No.:  
1:13-cv-00490  
(DNH/RFT)

**STIPULATION**

**WHEREAS**, Plaintiffs Camden Iron and Metal, Inc. and Eastern Metal Recycling, Inc. commenced this action by filing the underlying Summons and Complaint on April 30, 2013; and

**WHEREAS**, on July 15, 2013, Defendants Anthony Dawson and Morris Freedman filed a Motion to Dismiss pursuant to Federal Rule of Civil Procedure ("Rule") 12(b)(1) for lack of subject matter jurisdiction and Rule 12(b)(6) for failure to state a claim upon which relief can be granted; and

**WHEREAS**, on August 2, 2013, Plaintiffs filed a First Amended Complaint, wherein Plaintiffs addressed the alleged pleading defects contained in the cause of action set forth in Count II of the Complaint based upon breach of contract; and

**WHEREAS**, on August 6, 2013, Plaintiffs filed their opposition to Defendants' Motion to Dismiss, as well as a Motion to Strike the affidavits submitted in support of Defendants' Motion to Dismiss; and

**NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED** by and between the undersigned, the attorneys of record for the Plaintiffs and Defendants in the above captioned action, that: (1) the branch of Defendants' Motion to Dismiss Count II of Plaintiffs'

Complaint pursuant to Rule 12(b)(6) is hereby withdrawn without prejudice; and (2) Defendants' Motion to Dismiss and Plaintiffs' opposition to Defendants' Motion to Dismiss and Plaintiffs' Motion to Strike shall be addressed with respect to the First Amended Complaint.

Dated: August 12, 2013

**HERZOG LAW FIRM P.C.**

By: *s/ James M. Reilly*

James M. Reilly, Esq.  
(Bar Roll # 102425)  
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Dated: August 12, 2013

**THE WEST FIRM, PLLC**

By: *s/ Thomas S. West*

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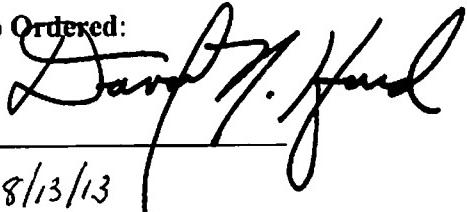
DATED: August 12, 2013

MANKO, GOLD, KATCHER & FOX, LLP

By: /s/ Kathleen B. Campbell  
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So Ordered:



8/13/13